



THE CITY OF NEW YORK
LAW DEPARTMENT

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June 2, 2008

MEMO ENDORSED

BY HAND

Honorable Richard M. Berman
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 650
New York, NY 10007-1312

Re: Wingate v. New York City Department of Correction, et. al.
07-CV-8679 (RMB) (RLE)

Dear Judge Berman:

I am the Assistant Corporation Counsel assigned to the above-referenced action. I write to respectfully request that defendants'¹ time to respond to plaintiff's opposition to defendants' motion to dismiss be extended to June 30, 2008. This is defendants' first request for an extension of time to submit a reply in this matter. As plaintiff is incarcerated and proceeding *pro se*, I am unable to obtain his consent prior to making this request.

Defendants served a motion to dismiss in this matter on February 29, 2008. This office never received a copy of plaintiff's opposition to their motion and thus never filed a reply. I first became aware that plaintiff filed an opposition to defendants' motion on June 2, 2008, during a conversation with Your Honor's law clerk, Lucas Moskowitz. Mr. Moskowitz indicated that he would forward a copy of plaintiff's opposition papers to this office. The additional time is necessary to review plaintiff's opposition papers and decide whether to submit a reply. I have asked for somewhat longer than would normally be necessary for a reply because I recently had surgery and am still recuperating at home. While I am able to do some work from home, I am still limited in what I can do and do not expect to return to the office until June 16, 2008. Accordingly, for the reasons set forth above, defendants respectfully request that their time to submit reply papers be extended to June 30, 2008.

¹ Upon information and belief, named defendants "Deputy Barnett" and "C.O. Atherly" have not been served with plaintiff's Summons and Complaint.

Thank you for your courtesy and consideration in this matter.

Respectfully yours,

/s/

Michael Suarez
Assistant Corporation Counsel

cc: Blake Wingate
11-11 Hazen Street
East Elmhurst, New York 11370

Extension to 6/30/08 Granted.	
SO ORDERED: Date: 6/3/08	
<u>Richard M. Berman</u> Richard M. Berman, U.S.D.J.	